

Message Text

CONFIDENTIAL

PAGE 01 USBERL 00536 01 OF 02 221856Z
ACTION EUR-12

INFO OCT-01 ISO-00 IO-13 CIAE-00 PM-04 INR-07 L-03 ACDA-07
NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00
SAJ-01 DODE-00 H-01 NSC-05 OMB-01 /080 W
-----222020 001841 /40

R 221645Z FEB 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC 4077
AMEMBASSY BONN
INFO AMEMBASSY BERLIN UNN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 0536

E O 11652: GDS
TAGS: PGOV PFOR WB UR UK FR US
SUBJ: ADDITIONAL SOVIET PROTEST ON FEBRUARY 18 MEETING OF
LAENDER INTERIOR MINISTERS'S CONFERENCE

REF: A) USBERLIN 0470; B) USBERLIN 0506; C) USBERLIN 1784 (76)

1. SOVIET EMBASSY POLITICAL COUNSELOR KHOTULEV ACCOMPANIED
BY TYUTYUNOV CALLED ON US (CHAIRMAN) POLAD FEB 22 TO
DELIVER FOLLOWING PROTEST ABOUT FEB 18 MEETING OF LAENDER
INTERIOR MINISTERS IN BERLIN ALONG WITH FRG INTERIOR
MINISTER MAIHOFFER (WHO REPORTED "DECISIONS" TAKEN AT
MEETING IN EVENING TV HOURS). KHOTULEV EXPLAINED THAT
HE WAS ATTENDING MEETING OF BLOCK DEPUTY FORIEGN MINISTERS
FEB 22 BUT HAD FELT COMPELLED TO TAKE TIME OUT TO PROTEST
BERLIN MEETING OF INTERIOR MINISTERS IN VIEW OF ITS
SERIOUSNESS.

2. TEXT OF SOVIET ORAL STATEMENT IN INFORMAL TRANSLA-
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 00536 01 OF 02 221856Z

TION READ: BEGIN QUOTE

ORAL DECLARATION

IN CONNECTION WITH THE SESSION OF THE CONFERENCE OF
MINISTERS OF INTERIOR OF THE FRG LAENDER WHICH TOOK
PLACE IN WEST BERLIN ON FEBRUARY 18TH OF THIS YEAR WITH

THE PARTICIPATION OF WEST BERLIN INTERIOR SENATOR NEU-BAUER AND ALSO WITH THE FRG MINISTER OF INTERNAL AFFAIRS MAIHOFER, I HAVE BEEN INSTRUCTED TO DECLARE TO THE ADMINISTRATIONS OF THE THREE WESTERN POWERS THAT THE SOVIET SIDE CONSIDERS SUCH AN EVENT IN WEST BERLIN AS CONTRADICTING THE BASIC PROVISIONS OF THE FOUR POWER.

AS IT HAS DONE MANY TIMES IN THE PAST, THE SOVIET SIDE DIRECTS THE ATTENTION OF THE AUTHORITIES OF THE THREE POWERS TO THE CLEAR AND UNAMBIGUOUS PROVISIONS OF THE AGREEMENT THAT "STATE BODIES OF THE FEDERAL REPUBLIC OF GERMANY WILL NOT PERFORM IN THE WESTERN SECTORS OF BERLIN CONSTITUTIONAL OR OFFICIAL ACTS" WHICH ARE IN CONTRADICTION TO THE PROVISION OF THE AGREEMENT ABOUT THE FACT THAT THE CITY DOES NOT BELONG TO AND DOES NOT FALL UNDER THE AUTHORITY OF THE FEDERATION. IN DOING SO, THE SOVIET SIDE CANNOT TAKE SERIOUSLY THE THESIS THAT THE CONFERENCE OF LAENDER INTERIOR MINISTERS OF THE FRG CANNOT BE REGARDED AS A "STATE ORGAN" OF THE FRG IN THE SENSE OF THE FOUR POWER AGREEMENT. IT (THE SOVIET SIDE) CONSIDERS IT NECESSARY TO RECALL THAT IN THE LETTER TO THE AMBASSADORS OF THE THREE POWERS TO THE FEDERAL CHANCELLOR OF THE FRG OF SEPTEMBER 3, 1971 THE TERM "STATE BODIES" WHOSE ACTIVITIES ARE FORBIDDEN IN WEST BERLIN IS INTERPRETED AS MEANING THE FEDERAL PRESIDENT, THE FEDERAL CHANCELLOR, THE FEDERAL CABINET, THE FEDERAL MINISTERS AND MINISTRIES, AND THE BRANCH OFFICES OF THESE MINISTRIES, THE BUNDESTAG, AND THE BUNDESRAT
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USBERL 00536 01 OF 02 221856Z

AND ALL FEDERAL COURTS.

THE CONFERENCE OF LAENDER INTERIOR MINISTERS OF THE FRG IS ONE AMONG THE ELEMENTS IN THE SYSTEM OF STATE ORGANS IN THE FRG, A FEDERAL ORGAN OF A GENERAL STATE CHARACTER OCCUPIED WITHIN THE LIMITS OF ITS COMPET-GBJCH THE EXAMINATION OF GENERAL STATE QUESTIONS CONCERNING AMONG OTHER THINGS INTERNAL SECURITY. IT WORKS IN CLOSE COOPERATION AND IN A DIVISION OF RESPONSIBILITIES WITH THE MINISTRY OF INTERNAL AFFAIRS OF THE FRG. THE FACT THAT THE FRG INTERIOR MINISTER CONSTANTLY PARTICIPATES IN THE WORK OF THE CONFERENCE THROWS ADDITIONAL LIGHT ON THE CHARACTER OF THE CONFERENCE AS A FEDERAL ORGANIZATION OF THE FRG CARRYING OUT IMPORTANT STATE FUNCTIONS. THE VERY PARTICIPATION OF THE FRG INTERIOR MINISTER MAIHOFER IN THE MEETING OF FEBRUARY 18TH, IS IMPERMISSIBLE FROM THE POINT OF VIEW OF THE FOUR POWER AGREEMENT.

ALTHOUGH THE AGENDA FOR THE MEETING OF THE MINISTERS WAS NOT OFFICIALLY DECLARED, IT NEVERTHELESS EMERGES FROM PRESS REPORTS THAT THE SUBJECTS OF THE MEETING WERE QUESTIONS ON HOW TO PERFECT THE WORK OF ORGANS OF THE INTERNAL SECURITY OF THE FRG AND WEST BERLIN, A SUBJECT THAT TOUCHES DIRECTLY ON THE STATUS AND SECURITY OF THE CITY. THE CREATION AT THIS MEETING OF NEW COMMITTEES AND COMMISSIONS OF THE CONFERENCE WITH THE SUBORDINATION TO THEM OF WEST BERLIN REPRESENTATIVES IS NOTHING ELSE THAN AN ILLEGAL EXERCISE OF DIRECT STATE AUTHORITY OF THE FRG OVER THE WESTERN SECTORS OF BERLIN.

THE SOVIET SIDE NOTES THAT THE VERY FACT OF CONDUCTING THE MEETING OF THE CONFERENCE OF LAENDER INTERIOR MINISTERS OF THE FRG, OF THE CHARACTER OF QUESTIONS EXAMINED BY IT AND THE DECISIONS TAKEN BY IT, CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USBERL 00536 01 OF 02 221856Z

AND OF THE PARTICIPATION IN THE MEETING OF FRG INTERIOR MINISTER MAIHOFFER CANNOT BE REGARDED OTHER THAN AS AN EFFORT TO VIOLATE SERIOUSLY THE BASIC PROVISIONS OF THE FOUR POWER AGREEMENT ON THE PART OF THE FRG. I HAVE BEEN INSTRUCTED TO POINT OUT THAT THE FULL RESPONSIBILITY FOR POSSIBLE CONSEQUENCES OF SUCH ILLEGAL ACTIVITIES OF THE FRG AUTHORITIES RESTS WITH THEM ALONE.

THE SOVIET SIDE EXPECTS THAT THE THREE WESTERN POWERS WILL CAREFULLY EXAMINE THE IDEAS AND JUDGEMENTS CONTAINED ABOVE AND WILL TAKE THE NECESSARY MEASURES TO PREVENT SIMILAR VIOLATIONS OF THE FOUR POWER AGREEMENT ON THE PART OF THE FRG. END QUOTE.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USBERL 00536 02 OF 02 221958Z
ACTION EUR-12

INFO OCT-01 ISO-00 IO-13 CIAE-00 PM-04 INR-07 L-03 ACDA-07
NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00
SAJ-01 DODE-00 H-01 NSC-05 OMB-01 /080 W

-----222022 002329 /40

R 221645Z FEB 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC 4078
AMEMBASSY BONN
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO

C O N F I D E N T I A L SECTION 2 OF 2 USBERLIN 0536

3. POLAD REPLIED TO THE SOVIET STATEMENT ALONG THE
FOLLOWING LINES:

HE RECALLED THAT THE SOVIET DIPLOMATS HAD CON-
VERSATIONALLY RAISED THE SAME SUBJECT IN THEIR CALL
AT THE US MISSION ON FEBRUARY 14 (REF A) AND NOTED
THAT THEIR PRESENT STATEMENT WAS OF A MORE DETAILED
AND FORMAL NATURE THAN THEIR EARLIER REMARKS. WE
WOULD OF COURSE TAKE NOTICE OF THE SOVIET STATEMENT
AND STUDY IT, AND RESERVE THE RIGHT TO COMMENT UPON
IT MORE FULLY IN THE FUTURE.

FOR THE PRESENT, HOWEVER, POLAD SAID HE WOULD
REPEAT CERTAIN OF HIS EARLIER COMMENTS WHICH PROVIDED
OUR GENERAL VIEW OF THE MEETING AS WELL AFTER IT HAD
TAKEN PLACE AS WHEN IT HAD MERELY BEEN SCHEDULED.

THE CONFERENCE OF THE INTERIOR MINISTERS OF THE
LAENDER DOES NOT CONSTITUTE A STATE ORGAN OF THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 00536 02 OF 02 221958Z

FEDERAL REPUBLIC OF GERMANY IN THE SENSE OF THE
QUADRIPARTITE AGREEMENT AND IT IS CLEAR THAT THE
CONFERENCE WAS NOT AND IS NOT IN A POSITION TO
CARRY OUT ANY FORMAL ACT WHICH CAN BE REGARDED AS AN
EXERCISE OF DIRECT STATE SOVEREIGNTY OR RULE OVER THE
WESTERN SECTORS OF BERLIN. THIS RELATES TO THE
NATURE OF THE MEETING.

THE SOVIETS MENTIONED AS OBJECTIONABLE THE FACT
THAT THE MINISTERS "REACHED DECISIONS". THE FACT IS
THAT THE GENTLEMEN CONSULT ABOUT CERTAIN QUESTIONS,
BUT THAT THEY DO NOT MAKE ANY BINDING LAW (LEGISLATION).
IF BINDING DECISIONS ARE TO BE MADE, THEN THEY CAN
ONLY BE ENACTED BY THE LAENDER GOVERNMENTS AND NOT BY
THE MINISTERS PER SE. IN THE CASE OF THE WESTERN
SECTORS OF BERLIN THIS MEANS THAT THE BINDING ENACT-

MENT OF DECISIONS WOULD HAVE TO BE DONE BY THE SENAT ITSELF, AND IN THIS CASE ALSO ONLY WITH THE AGREEMENT OF THE THREE ALLIED PROTECTIVE POWERS.

FOR THE ABOVE REASONS IT IS OUR VIEW THAT SUCH MEETINGS MAY TAKE PLACE IN THE WESTERN SECTORS OF BERLIN, WITHOUT OCCASIONING VIOLATION OF ANY PROVISION OF THE QUADRIPARTITE AGREEMENT.

KHOTULEV THANKED US FOR OUR STATEMENT AND EXPRESSED THE VIEW THAT WHEN WE STUDIED THE SOVIET STATEMENT FURTHER IN CONNECTION WITH THE HAPPENINGS OF THE LAENDER MINISTER CONFERENCE, THE ALLIED WOULD FIND JUSTIFIED THE SOVIET POSITION TO THE EFFECT THAT A DIRECT VIOLATION OF THE QUADRIPARTITE AGREEMENT HAD OCCURRED. THIS WAS PARTICULARLY SO IN VIEW OF THE PARTICIPATION OF THE FEDERAL INTERIOR MINISTER IN HIS OFFICIAL CAPACITY, AND OF THE REACHING OF DECISIONS WHICH THE CONFERENCE HAD EFFECTED. HE HOPED THAT WE WOULD ASSOCIATE OURSELVES WITH THE SOVIET RECOMMENDA-
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USBERL 00536 02 OF 02 221958Z

TIONS OF THE STATEMENT.

POLAD REPEATED THAT WE WERE OF A DIFFERENT OPINION IN REGARD TO THE CONFERENCE, BUT THAT WE WOULD AS EVER CAREFULLY CONSIDER THE SOVIET ARGUMENTATION. HE LEFT OPEN THE POSSIBILITY OF PROVIDING A FORMAL REPLY TO THE SOVIET STATEMENT.

4. COMMENT: THIS PROTEST CONTAINS MORE BITE AND ELABORATION THAN MANY OTHERS ABOUT THE MEETING OF FRG BODIES IN BERLIN. THE SENAT INFORMED US IN ADVANCE OF THE CONFERENCE AND THE AGENDA. WE ASKED THE SENAT (KUNZE) ON FEBRUARY 17 WHETHER THE LAENDER MINISTERS WERE ABLE TO MAKE BINDING DECISIONS. THE REPLY WAS THAT THE MINISTERS TRIED TO AGREE ON COMMON POLICY, BUT THAT THE INDIVIDUAL LAENDER GOVERNMENTS SUBSEQUENTLY HAD TO PUT THE DECISIONS INTO EFFECT.

THE SENAT DID NOT ADVISE US THAT FEDERAL INTERIOR MINISTER MAIHOFFER WAS TO ATTEND THE CONFERENCE. THE CONFERENCE GENERATED CONSIDERABLE POPULAR CURIOSITY ABOUT WHETHER THE FEDERAL GOVERNMENT SHOULD ESTABLISH A "NATIONAL FBI" (IN THE WAKE OF SEVERAL RECENT KIDNAPPINGS), AND JOURNALISTS PURSUED THE PARTICIPANTS WITH QUESTIONS ON THIS ISSUE. UNFORTUNATELY, IN THIS CONNECTION MAIHOFFER CREATED DIFFICULTIES BY APPEARING ON TV AND TALKING ABOUT THE "DECISIONS ARRIVED AT" BY THE MINISTERS. THERE WAS LITTLE OR NOTHING IN HIS

COMMENTS TO DISCOURAGE THE INTERPRETATION THAT THE
MINISTERS HAD MET AS A FORMAL BODY WITH DECISION-MAKING
POWERS AND THAT THEY HAD PUT INTO PRATICE NEW
PROCEDURES.

THIS IS THE SECOND RECENT APPEARANCE WITH NO WARNING
TO THE ALLIES OF A FEDERAL MINISTER IN BERLIN WHO THEN
PROCEEDS PUBLICLY TO GIVE THE IMPRESSION THAT HE IS
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USBERL 00536 02 OF 02 221958Z

EXERCISING UNINHIBITED GOVERNMENTAL AUTHORITY IN THE
WSB (FOR INSTANCE, 76 USBERLIN 1784, JUSTICE MINISTER VOGEL'S
"INDUCTION INTO OFFICE" OF A FEDERAL JUDGE). WE CONSIDER
THAT THE ALLIES WILL HAVE TO TRY TO DISCOURAGE THIS
CARELESS BUT DEMONSTRATIVE PRACTICE. SUCH VISITS DE-
LIBERATELY FOSTER PRESUMPTIONS OF FRG MANAGEMENT
IN BERLIN, WHICH ALTHOUGH FALSE ARE NOT IMPLAUSIBLE.
AFTER THE FACT, THE ALLIES THEN BECOME CAPTIVE APOLOGISTS.

WE WILL COMMENT ON THE NOTE AND MAKE RECOMMENDATIONS
AFTER CONSULTATION WITH THE OTHER MISSIONS. WE THINK
THAT A MORE FORMAL REPLY WILL PROBABLY BE CALLED FOR.GEORGE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC PROTESTS, MINISTERIAL MEETINGS
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USBERL00536
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770061-0913
Format: TEL
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770219/aaaaarjo.tel
Line Count: 304
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: f0d460c3-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 USBERLIN 470, 77 USBERLIN 506, 77 USBERLIN 1784
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3258631
Secure: OPEN
Status: NATIVE
Subject: ADDITIONAL SOVIET PROTEST ON FEBRUARY 18 MEETING OF LAENDER INTERIOR MINISTERS'S CONFERENCE
TAGS: PGOV, PFOR, WB, UR, UK, FR, US
To: STATE BONN
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/f0d460c3-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009